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**DEC 12 2006**

**OFFICE OF PETITIONS**

In re Application of :  
PACKHAM et al. :  
Application No. 09826,720 : **DECISION ON PETITION**  
Filed: April 5, 2001 :  
Attorney Docket No. 11223-002002 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

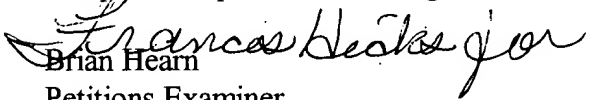
This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 1.191(d). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 1.192(c), mailed April 6, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 7, 2004. See MPEP 1215.04.

The instant petition was filed on the basis that the attorney of record never received the Notification of Non-Compliance action dated April 6, 2004. Petitioner submitted as evidence 1) a statement from practitioner stating that the Office action was not received by the practitioner; 2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) a copy of the docket record where the nonreceived Office action would have been entered had it been received which is attached to and referenced in the practitioner's statement.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of \$110 for large entity; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to the Technology Center Art Unit 3724 for appropriate action on the revised Appeal Brief (titled 'Reply to Action of April 6, 2004') filed with the instant petition on August 19, 2004.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

  
Brian Hearn

Petitions Examiner

Office of Petitions